

HOUSING WITHIN REACH TASK FORCE:

2005 Policy Recommendations

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Special thanks to:

The South Florida Community Development Coalition (www.floridacdc.org) and
The Children's Trust (www.thechildrenstrust.org)



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Our house is in desperate need of repairs. The main water pipe is broken into two pieces. The water leaks everywhere, in the bathroom, the bedrooms. All the water from the bathrooms and kitchen sink goes out behind the stove. This is where all the mold lives. As everyone knows, electricity and water do not mix and can cause a fire, but we still have to find a way to cook. All of the surfaces around the sink have risen due to the water damage. We had to turn off the water to the bathroom in back. We are left with one bathroom for six people to share. All of us have some type of medical problem. My mother is disabled and doesn't sleep well because her sinuses act up because of the mold. Sometimes my little brothers will wake up wheezing and have to take asthma medication to make it stop. The city has come to look at the house and said that the house is not livable, but we have no choice but to stay here because we have no place to go. The city will not let us refinance the house because we had done some work on it. The insurance company came to look at the house, but they haven't called or said anything after three months. We need help to find a way to better our health and our living environment.

Sant La, Prosperity Center client

I. Introduction

In recent years, the price of residential real estate in Miami-Dade County has skyrocketed, while the increase in household income has been sluggish. This has led to a housing affordability crisis in Miami-Dade County. This is true not only for low-income households, but for households that are generally considered to be well into the middle class.

The Housing Within Reach Taskforce (“Taskforce”) is a county-wide collaborative effort comprising developers, financing institutions, and human services organizations committed to the creation of equitable and sustainable societies. The Taskforce is both a clearinghouse for the latest and most accurate information on affordable housing resources and an entity furthering policy efforts to put housing within reach of all Miami-Dade residents.

Our goals:

- Work collaboratively to preserve and leverage existing sources of funding for housing development and rehabilitation, particularly those currently in jeopardy
- Continue steps to streamline and expedite the development process
- Examine and diminish regulatory requirements and policies that impact the production of housing
- Develop a neutral and centralized virtual gathering place for housing information and resources for all homebuyers, renters, homeowners, developers, lenders, government agencies and ancillary housing and construction service providers
- Raise awareness about housing issues and how they affect all residents
- Improve people’s attitude towards living here and improve their ability to do so
- Increase housing resources available to renters, homebuyers and homeowners
- Market housing providers and programs more effectively

To help overcome this situation, the Housing Within Reach Task Force and its member organizations strongly urge the adoption of an effective inclusionary zoning ordinance in combination with other affordable housing policies. The recommendations included in this paper on how to improve housing policy are based on the following facts:

- **The majority of Miami-Dade residents are paying an excessive portion of their income on housing.** In 2003, 60% of renters and 45% of homeowners paid over 30% of their income on housing.
- In 2004, it took an income of \$17.87/hour to afford a two bedroom apartment at fair market rents, while in the rest of Florida, a family required about \$15/hour for the same apartment.
- In a study of 65 of the state’s 67 counties, Miami-Dade was 60th in terms of affordability. We ranked less affordable than Broward (59) and Palm Beach (52).ⁱ

- **Homeownership is out of reach for many Miami-Dade families.** *Median home value in Miami-Dade in 2003 was \$172,757, up from \$133,477 in 2000. Median sales price for existing homes was \$273,900 in 2004, a 23% increase over 2003.*ⁱⁱ In February 2003, the median new home sale price in Miami-Dade exceeded \$300,000.

To afford a home at these rates with no more than 30% of monthly income spent on housing, a family would need an annual income near \$90,000.ⁱⁱⁱ This is a far cry from current reality, where Miami's poverty is 24%.

The adoption of strong inclusionary zoning ordinances by Miami-Dade County and Miami-Dade cities, in conjunction with additional policies and ordinances promoting affordable housing and an equitable society, will not only spur actual production of affordable housing, but will promote socioeconomic diversity within neighborhoods and communities.

II. State Policy Recommendations

(A) Preservation of the Sadowski Act – Affordable Housing Trust Funds

Adopted by the state legislature in 1992, the Sadowski Act enacted in statute a dedicated revenue source for affordable housing. The Act monies are statutorily dedicated by formula to the state and local housing trust funds with 70% of the revenue dedicated to local governments through the State Housing Initiatives Partnership (SHIP) program (a grant to local governments) to be used in meeting the housing needs of their residents. The remaining 30% of the revenue is dedicated to the state to fund successful legislatively created programs such as the State Apartment Incentive Loan program (SAIL) and the Guarantee Fund.

Through the SHIP program created by the Act, over 15,000 families have received affordable housing. It has enabled local and state governments to bring over \$620 million in federal money by providing local match funds. The Act not only brings money into the community for homeownership and rentals, but also offers emergency relief from national disasters and provides thousands of construction jobs. Considering the current housing situation in Miami-Dade County, we believe that the Sadowski Act is invaluable to our community.

In 2005/2006, the Governor and Legislature capped the Housing Trust Funds at \$243 million, raiding the housing funds to be used for other purposes. In Miami-Dade County alone, this represents a loss of over \$45 million in housing funds,

over 3,000 housing units, and over \$345 million in economic activity. In 2006/07, the Housing Trust Funds are expected to generate \$939 million but are at risk of once again of being raided by the legislature for other purposes. If the cap continues, it is expected to result in a loss of over 48,000 housing units statewide.

Recommendation: The system of no caps should be continued with the full 20 cents of doc stamps dedicated to the Housing Trust Funds appropriated each year. If a cap is enacted, then it must be at a level that reflects current housing costs and has an annual increase for both population and housing costs.

III. Local Policy & Ordinance Recommendations

3.1 “Inclusionary Zoning” Ordinance Recommendations

(A) For Any Inclusionary Housing Policy to be Effective, it must be Mandatory Rather Than be Voluntary:

There are many jurisdictions that have voluntary or incentive-based, inclusionary zoning ordinances. The problem is, according to national studies of the effectiveness of Inclusionary Housing programs, that most of them, because of their voluntary nature, produce very few units.

In the absence of a mandatory policy, a voluntary policy should have a one to two year evaluation period at which time the policy will be evaluated to determine if the voluntary policy has produced an adequate number of affordable units.

(B) “Set-Aside” Requirements for Lower-income Groups:

The Task Force recommends that a specific percentage of units in all rental and ownership developments be earmarked as affordable. The percentage can vary but is typically in the range of 10-25%. The Taskforce recommends 15%.

Some jurisdictions have set-asides that vary based on the incomes targeted. For example, the Miami-Dade Housing Agency (or MDHA approved nonprofits) should have first right of refusal for purchasing one-third of affordable set aside units with the understanding that they be rented or sold to low to very-low-income (for example, below 80% of the average median income, or AMI) households. This will have the effect of “reaching” those at the lower income levels.

(C) Regionalism:

The inclusionary housing policy needs to be viewed as a regional issue and should apply towards all of Miami-Dade, including incorporated communities. Having the policy apply only to unincorporated Miami-Dade will defeat the regional goal of the Inclusionary Housing proposal. A principle objective of the proposed policy is to promote the market rate production of affordable, integrated housing and serve as a vehicle for economic integration and poverty deconcentration. Absent this, the Commission should consider engaging the League of Cities and incorporated cities to assist in crafting corresponding legislation.

(D) “On-Site” Construction Requirements:

The Task Force urges that on-site affordable units be comparable to the market-rate units within the project in bedroom mix, design and overall quality of construction materials used on exterior features. Interior feature construction materials of affordable units may be modified or substituted for those used in market-rate units, in order to more easily recapture the costs associated with the affordable units. Allowances can also be made in the total square footage of affordable units.

(E) “Off-Site” Construction Option:

High-end developments often include significant on-going expenses for buyers (such as maintenance fees and property taxes) that can be prohibitively expensive for low and moderate-income households, even if affordable units in a given development are constructed. Therefore, in such developments, developers should be allowed to elect to build affordable units off-site. If this off-site option is utilized, the developer must increase the affordable unit set-aside to one and one half more affordable units than are required for on-site construction. Off-site construction should be of the same type as the on-site construction, i.e. rental or for-purchase, and should, wherever feasible (according to land availability), occur in the same municipality as the on-site construction.

3.2 “Developer Incentive” Recommendations

Because developers are central to the provision of affordable housing, it is recommended that they are provided **incentives to build or rehab affordable housing**. Cost offsets such as permit and impact fee waivers or reductions,

density bonuses, a streamlining of the permitting process, more flexible land use and zoning designations and modifications of existing plats are some of the measures to be adopted to encourage the development of affordable housing in Miami-Dade.

These incentives should be designated for both rental and ownership housing, and for new construction and rehab housing. The full range of developer incentives available should pertain only to developments in which at least 50% of the units built or rehabbed are affordable to households at or below 80% of the county median income. A sliding scale of incentives could be offered to developments that designate at least 50% of the units built or rehabbed as affordable to households up to 120% of the county median income. Some specific examples are described below.

(A) Ease Access to Predevelopment Financing:

Developers of single-family affordable infill housing need easier access to financing for predevelopment and construction costs. Small-scale developers, without the deep pockets, need predevelopment financial assistance to cover the extraordinary costs associated with building scattered site houses in distressed neighborhoods.

(B) Waive All Impact Fees:

To spur development in distressed neighborhoods, all impact fees should be waived. In Miami-Dade County the impact fees for roads, police and parks are already waived but NOT for housing.

(C) Pay Government Fees after Completion of Construction:

Allow governmental permit, impact and utility connection fees to be paid at the time an affordable house is sold rather collecting them "up front." Such fees are a burden to small builders because they are not financeable.

3.3. "Affordability" Recommendations

(A) Household Income Targets:

The "affordable" residential units created through Inclusionary Zoning Ordinances should be defined as those able to be sold or rented to qualified households with incomes at or below 120% of the County's AMI.

(B) Periods of Affordability:

Affordable rental units created primarily through use of the Local Housing Trust Fund (to be created – see below) should remain affordable for at least 30 years. For-sale units should also be required to remain affordable for at least 30 years, and the equity derived from resale of affordable units should be split between the Local Housing Trust Fund and the homeowner (based on how long the homeowner has resided in the unit). Affordable units built utilizing other government subsidies (such as the Community Development Block Grant (CDBG), the State Housing Initiatives Program (SHIP) and the Home Investment Partnership Program (HOME)) would remain affordable for the durations required by these funding sources. Additionally, the Ordinance can allow the Local Housing Trust Fund, land trusts, or a qualified nonprofit developer, to have first rights of refusal on the resale of affordable units.

(C) Pre-Designed and Pre-Permitted Plans:

Local government should authorize the creation of a variety of pre-designed units with pre-approved building permits. The designs should then be made available at no cost to infill developers building affordable single family homes in distressed neighborhoods. This idea would go beyond the present "cookie cutter" approval process (wherein a developer of a multi-unit project has only to get a design approved and permitted the first time that it is used). The current approach is helpful but a small infill developer *still* has to hire an architect to create the initial design, has to hassle with getting that initial design approved, and is limited to using that one design only.

(D) Allow "Granny Flats":

Adjust zoning codes to allow construction of more "accessory dwelling units" (ADUs), also known as granny flats, garage apartments, carriage houses, or ancillary units. For some homeowners, the most attractive aspect of ADUs is the potential for extra income from renting out the units. ADUs offer density without making the street appear overbuilt.

3.4 "Capitalization" and "Land Utilization/Dedication" Recommendations

(A) "Leave no Vacant Lot Behind":

There are thousands of privately owned vacant lots in Miami-Dade's distressed neighborhoods. They offer tremendous opportunities for local government collaboration with experienced infill developers and private lenders to pursue an

aggressive strategy of acquisition followed quickly by new, affordable construction. However their acquisition poses certain barriers that can be addressed through a variety of mechanisms.

There is no Comprehensive Inventory of Available Land: Creating a comprehensive inventory of ALL vacant lots in distressed neighborhoods would be the first step in utilizing available land resources to meet housing needs. The inventory of properties should be posted to a website in a user friendly format that allows potential developers to easily browse through the available properties. The inventory should have "clickable" aerial photos to zoom in on particular neighborhoods. The ideal system would have information on ownership, code enforcement liens, back taxes, zoning, infrastructure, etc. all within the same location/site.

Unpaid Citations on Vacant Land: Many local governments have a huge inventory of unpaid lot clearance citations affecting vacant parcels in distressed neighborhoods. Most of these so called "liens" are never recorded in the Public Record.

These Governments Should Formally Record the Citations in the Public Record so as to convert them into liens under the provisions of a state statute. This should be followed by an aggressive policy of judicial foreclosure. This would provide an incentive for the owners to sell some of these long-time vacant parcels to people who will actually use them for a productive purpose. Many of these parcels, especially those located in the most distressed neighborhoods, would end up being owned by local government thus becoming available for redevelopment.

Lien Clearance Assistance: Vacant lots that are often infested with code violation liens and penalties having huge payoff amounts would adversely affect the economic feasibility of acquisition and redevelopment. Local government should have programs to assist developers with clearance of pre-existing liens when such parcels are acquired on the private market or at tax deed sales.

Exploding Land Prices: A capable developer experienced with working in low-income neighborhoods has no trouble obtaining construction loans provided that reasonably priced building lots and subsidized purchase loans for the homebuyers are available.

However, overly high land prices (even in distressed neighborhoods) are making an otherwise desirable acquisition economically unfeasible. Government sponsored second mortgage loan programs (such as Surtax-SHIP) place a cap on the size of the purchase prices that can qualify. So the higher land cost cannot always be absorbed into the development cost of a house and then passed on to the customer in the form a higher sales price.

Developing the Forgivable Matching Acquisition Loans would help get around this situation. Local governments could partner with selected lenders and experienced infill developers by providing forgivable loans that could be matched with private sector financing for use in property acquisition.

The amount of each forgivable loan would vary from deal to deal (depending on how much acquisition subsidy was needed in order to make the proposed new affordable home in question economically feasible). The loans would be forgiven if the house, when constructed, was sold to a qualifying low-income purchaser.

Once these procedures and mechanisms are in place, interested developers would proceed to identify and seek out the owners of vacant parcels and negotiate standard purchase contracts with the appropriate financing contingency clause (such clauses are needed because each acquisition would be subject to a quick decision by the lenders regarding approval or disapproval). Bureaucratic delays in making disbursements must be avoided because most acquisitions are required to be closed within 30 days after the purchase contract has been signed.

(B) Expand the Miami-Dade Infill Housing Initiative:

The primary activity of the County's current program consists of distributing lots to developers that the County had obtained through tax foreclosure. Surtax loans are available to homebuyers. There is a very limited pool of funds that can be used for construction loans. The County puts a reverter clause in its deeds requiring completion of construction within 12 months. Because the properties were acquired by tax deeds, title insurance companies often require the developers to prosecute quiet title lawsuits. A way should be found to eliminate the need for the developers to do this (perhaps the County could work with pro bono attorneys to clear the title before the land is conveyed to developers). Construction lending can be facilitated if the County agrees to subordinate its reverter rights to the lender's mortgage. Creative new ways should be found for

the County to acquire ownership of vacant lots beyond the current reliance on tax foreclosures (the number of which are rapidly declining as land prices rise).

(C) Creation of a “Local Housing Trust Fund”:

To augment current State, Federal, and private sources of capital and subsidy available for the provision of affordable housing within Broward County, the Broward Alliance for Neighborhood Development (BAND) recommends that a Local Housing Trust Fund be established. In addition to funds accrued from the inclusionary zoning “in-lieu” payment option, the Fund can be financed through a local surtax on documentary stamps payable on all commercial real estate transactions that take place in Broward County.

Another potential method of capitalizing a Local Housing Trust Fund might involve pooling second and third mortgages previously funded through the SHIP and HOME programs and held by various entitlement jurisdictions within the County (including the County) and selling them on the secondary mortgage market (possibly to Fannie Mae), with the proceeds resulting from these transactions going into the Local Housing Trust Fund. This measure would, of course, require agreement among various municipalities and the County to pledge these receivables.

Start-up funding for the Local Housing Trust Fund can also be provided by an allocation of general revenue funds from the County and from each municipality as well as the private sector and foundations.

(D) Creation of a “Community Land Trust”:

In addition to the Local Housing Trust Fund described above, which is a financial pool to be used exclusively for affordable housing development, a Community Land Trust should be established -- consisting of real property which can be used for affordable housing development (either vacant land or property with existing structures on it). The land to be put into the Community Land Trust can come from local governments and other public agencies, private for-profit enterprises, private individuals, foundations, and the “in lieu” land contributions from developers (see II.D. above).

A Community Land Trust typically involves establishing a nonprofit organization that acquires and holds real property in perpetuity for the benefit of the community. Housing is developed on the Trust land, and sold or rented to target income households. If the housing is sold, purchasers are actually buying

long-term leases on the homes, while the Community Land Trust maintains ownership of the land, and the land value is deducted from the home's purchase price (enabling houses to be sold more affordably). When homeowners sell their houses to new qualified buyers, they realize equity only on the increased value of the house itself, and not the land, which remains owned by the Trust. Since the land equity remains in the Trust, the homes can still be offered at more affordable prices than comparable homes being sold in the community.

(E) Property Dedications to Nonprofits:

The Task Force advocates for the County and the municipalities within the County to officially dedicate all lands currently owned (or acquired in the future because of delinquent taxes and municipal liens) by these jurisdictions and zoned as residential, affordable housing sites. These properties should be made available to qualified local nonprofit affordable housing developers as donations.

(F) Improve City of Miami "Homeownership Zone" Program:

The City should more aggressively implement all of the Homeownership Zones promised in their 2001 five year Consolidated Plan. There should be better coordination with the Miami-Dade County Housing Agency's Infill Housing Initiative. The new zones should have governance or advisory boards composed of lenders, developers (both nonprofit and for-profit), and residents.

3.5 Additional Recommendations

(A) Livable Wages:

All the housing policies and programs cannot adequately fill the gap between workers' earnings and rising housing costs. For example:

- The poverty rate is 24% in Miami-Dade, compared to 13% statewide.
- Incomes haven't risen as quickly as home prices.
- 1990 – 1997, *average salary increased 26%, but single family home prices increased 42.5% during the same time.*^{iv}
- In 2004, the median household income in Miami-Dade was \$45,400, compared to \$52,319 statewide.^v A family earning \$45,400 must spend over 30% to afford a three-bedroom apartment.

We strongly urge and recommend that each employer of good will in Miami-Dade County voluntarily pay all employees at least a living wage, with benefits sufficient for each worker and the well being of the worker's family. Paying a

suitable wage with adequate benefits provides each worker with dignity; provides workers greater ability to select safe, adequate, affordable housing in a healthy neighborhood of their choice; and provides the worker and family means to make other vital medical and educational choices.

(B) Housing Rehab to Preserve Current Affordable Housing Stock:

The Task Force recommends that the current stock of affordable housing be revitalized and preserved through the provision by local governments of rehabilitation loans and grants to ensure that current homeowners live in safe and sanitary living conditions. Rehabilitation provides a very cost effective program to: 1) maintain affordable housing stock for low and very low-income homeowners; 2) support low-income homeownership; 3) support a rising tax base; 4) maintain neighborhood integrity; and 5) avoid the new construction costs and subsidized incentives necessary for low-income homeowners. Homeownership by low and very low-income families is crucial for community development and a rehabilitation program is essential for securing an affordable housing inventory and decent living conditions for these households.

(C) Homeownership Program Recommendations:

To encourage homeownership among low to moderate-income households in Miami-Dade County, it is recommended that homeownership program subsidies be increased by local governments, that a vigorous marketing campaign take place to inform County residents of the existence of the various first-time homebuyer programs operated by the County, the various Cities, and the nonprofit sector. Further, the various local Housing Authorities should move aggressively forward with a Section 8 Homeownership Program, as allowed by HUD guidelines, to foster homeownership among households currently receiving rental-housing subsidies. As market prices continue to rise, higher income households are also being priced out of homeownership. As current government subsidies do not subsidize higher income households, private sources could raise funds to help middle-income households maintain a stake in the community.

While homeownership is not feasible for some households, it is a worthy goal to aspire and work towards for all. Homeownership is the most efficacious way to nurture financial security for individuals and households because of equity building and the tendency for property to appreciate over time. Homeownership also promotes community stability and security. Since homeowners have greater stakes in their community, a neighborhood full of homeowners will tend to be

freer of crime and slum and blight conditions than if that neighborhood consists primarily of renters.

3.6 Administrative Recommendations

The administration of the Local Housing Trust Fund and the Community Land Trust should be vested in an independent agency with its own Governing Board, Executive Director, and support staff. The composition of a SHIP Advisory Committee established by Florida Statutes can serve as a model for composition of the Governing Board. The Governing Board should also have members appointed by elected public officials of jurisdictions within Miami-Dade County (but not including currently elected public officials), and it is strongly recommended that nonprofit affordable housing advocacy groups be represented. This entity should be independently accountable and audited each year. A small percentage of the annual revenues derived from the Local Housing Trust Fund and Community Land Trust should be dedicated toward the administrative purposes of this independent agency.

Other administrative recommendations would include that the County complete its consolidation of offices that deal with affordable housing so as to minimize the funds needed for administration of the affordable housing development and subsidy process. Administrative costs can be reduced if each city is not separately staffing its own housing and community development office – perhaps such administration can be shared by several cities.

(A) Speed up the Permitting Process:

The approval process needs to be streamlined and accelerated for scattered site, single family infill development. Suggestions include: "One-Stop Shopping" (all services surrounding the permitting process should be obtained from one designated department); set mandatory deadlines for smaller projects, assignment of facilitators, fast tracking smaller infill projects; pre-application meetings; adhere to minimum standards (reviewers should not be able to required small infill developers to build above and beyond the stated minimum code standards); and self help inspections (allow inspections by certified architects rather than county staff).

(B) Make Miami-Dade Surtax-SHIP Program More Effective:

This second mortgage home purchase loan program is run by a hard working, dedicated County staff. First mortgage lenders have at times found their participation to be difficult due to perceived problems with County policies and procedures. In May of 2004, a committee of lenders submitted a whitepaper to the County outlining certain issues and recommending solutions. Loan closings, amongst other issues, are said to be unnecessarily delayed because the County always does an independent underwriting process rather than bootstrapping upon the underwriting already completed by the participating first mortgage lender. The paper recommended two options: (1) if the County decides to continue doing its own independent underwriting, it should work with the lenders to resolve the problems outlined in the whitepaper, or (2) the County could change its policies and rely upon a single unified underwriting process performed by the participating lender. Under this second option, the County would establish its underwriting criteria and would do the income certification for the applicants. The participating lenders would originate, process, and underwrite the loans based upon the criteria set by the County. County staff would review the income, family size, amount of the loan, and interest rate. If the file is found to have been underwritten correctly, a request would be sent expeditiously to the County's finance department for funding.

(C) Sell Surtax-SHIP Loans on a Secondary Market:

During 2004 Miami-Dade County, for the first time, sold a small percentage of its huge inventory of closed Surtax-SHIP loans on the secondary market to an affiliate of the Neighborhood Reinvestment Corporation. Doing this generated over \$2 million that can be used for making additional loans. Why not sell, in a secondary market, or leverage, *all* closed Surtax-SHIP loans in the same way that banks sell all of their loans to Fannie Mae and Freddie Mac?

IV. Conclusions

The housing crisis has now been widely acknowledged in Miami-Dade and throughout South Florida. Our county has the biggest gap between incomes and housing costs in the nation. We are already losing essential members of a vital middle class and the businesses that employ them. Without the jobs, we also lose the potential for upward mobility that would refuel that middle class. And we cannot solve the housing crisis at the expense of our environmental future.

The Housing Within Reach Task Force was created because its members recognized we must invest in solving our housing crisis. We invite your participation in the Task Force and your support of these recommendations as well as your input on what more we can do to address the housing challenge.

ⁱ UF Shimberg Center for Affordable Housing “State of Florida’s Housing 2003.”

ⁱⁱ Florida Association of Realtors, Florida Sales Report, Year End 2004.

ⁱⁱⁱ Assuming \$33,000 down for 10% and low closing costs, 6.25 % 30 year fixed rate mortgage and one-third of the monthly payment for taxes and insurance.

^{iv} UF Shimberg Center for Affordable Housing “State of Florida’s Housing, 2000;” Florida Dept. of Labor.

^v Median income as calculated by the US Department of Housing and Urban Development. US Census figures show a lower median income of \$37, 025 for residents of Miami-Dade County.